

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (C) No. 1151 of 2016**

Shri Laxmi Sports Subhash Nagar Sadar Bazar, Bilaspur (Chhattisgarh),  
Through Its Proprietor Shankar Lal Roy, Aged About 73 Years, S/o. Late Shri  
G.L Roy, R/o. Subhash Nagar, Sadar Bazar, Bilaspur (Chhattisgarh)

**--- Petitioner****Versus**

1. State of Chhattisgarh Through The Secretary, Department Town And Country Planning, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur (Chhattisgarh)
2. The Executive Engineer, Physical, Cultural Society, Bilaspur, District Bilaspur (Chhattisgarh)
3. Municipal Corporation Bilaspur, Through Commissioner, Municipal Corporation, Bilaspur, District Bilaspur (Chhattisgarh)
4. President, Physical, Cultural Society, Bilaspur, District Bilaspur (Chhattisgarh)
5. Chhattisgarh Supplier Agency, Mohanpur, Tehsil Lailunga, District Raigarh (Chhattisgarh)
6. Singhania & Co., Krishna Complex, Raigarh, District Raigarh (Chhattisgarh)

**--- Respondents**


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|--------------------------------------|---|------------------------------------|
| For Petitioner                       | : | Shri Pawan Kesharwani, Advocate.   |
| For Respondent/State                 | : | Shri UNS Deo, Government Advocate. |
| For Respondent/Municipal Corporation | : | Shri Pankaj Agrawal, Advocate.     |

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**Hon'ble Shri Navin Sinha, Chief Justice**  
**Hon'ble Shri P. Sam Koshy, J.**

**Order on Board****Per Navin Sinha, Chief Justice****03/05/2016**

1. The Respondent-Corporation is stated to have published a tender inviting offers for supply of gym equipments for Raja Raghuraj Singh Stadium. Neither has the date of the tender notice been mentioned nor the dates when the technical bid was opened, much less the financial bid. The Petitioner still claims that he was L-1. The affidavit in support of the writ petition and which includes Paragraph-8.3 of the same states that this fact was true to the personal knowledge and belief of the Petitioner. The fact that the Petitioner may have been L-1 was an issue of fact. It had to be true to the personal knowledge of the Petitioner and not to his belief as

they are mutually contradictory.

2. Learned Counsel for the Petitioner submitted that the Respondent-Corporation on 5.12.2015 acted arbitrarily in asking for photographs and specifications of the goods to be supplied under the letter-head of the manufacturer of the equipments concerned within seven days. The Petitioner on 15.12.2015, i.e. after seven days, replied that the request made by the Respondent-Corporation was irrelevant and not justified. The Petitioner again received a similar letter dated 2.1.2016 to be replied within three days, and which again was replied much beyond that time, asking for furnishing the necessary information as sought on 5.12.2015. On 21.3.2016 the Petitioner again wrote to the Respondent-Corporation for awarding it the purchase order for supply of equipments. Till date the Petitioner had not received any communication from the Respondent-Corporation and that the "Petitioner perceived that award had already been made either to Respondent No.5 or Respondent No.6".

3. In matters relating to tender and award of contract, the scope for judicial intervention under Article 226 of the Constitution in exercise of powers for judicial review is extremely limited. If the action of the Respondent-Corporation is arbitrarily or there were infirmity in the decision making process, issues were being raised outside the terms of the tender are but some of the grounds where judicial review may be invoked. The Court otherwise cannot step into the shoes of the person publishing a tender to decide its actions at each step taking decisions on its behalf.

4. We are not satisfied from the pleadings in the writ petition, which are wanting in basic facts, that the Petitioner as claimed was L-1. Even if he was L-1, it vests no absolute right in it to demand award of contract. The only question for our consideration is if the Respondent-Corporation was acting arbitrarily and illegally in requiring the Petitioner to furnish photographs and specifications of the products in

question on the letter-head of the Company concerned of which the Petitioner was a dealer. The communication dated 5.12.2015 itself reflects that this was not an individualized decision, but a decision of the Tender Committee. There are no allegations in the writ petition that either the Tender Committee or any particular member of the Tender Committee was disposed malafide towards the Petitioner. If the Tender Committee in its wisdom in context of a particular tender, for reasons to its satisfaction desired a confirmation from the original manufacturer of which the Petitioner was a distributor, we see no illegality in it. It would only enable the Tender Committee to take a final call if the products were genuine and to its satisfaction. The issue of maintenance and regular supply of spares would also arise. All these are matters to which the Tender Committee undoubtedly must have applied its mind. The Petitioner seems to be unsure of itself and has made an ambivalent statement with regard to Respondent No.5 and 6. No writ petition will lie on mere apprehension and no mandamus or certiorari can be issued on apprehension.

5. If the aforesaid were not enough, the last communication received by the Petitioner was on 2.1.2016 to be responded within three days. He was responded eleven days later on 13.1.2016 followed by a reminder on 21.3.2016 and then instituted the present writ application belatedly on 26.4.2016.

6. We are not satisfied that the Petitioner has made out any ground for interference in exercise of powers for judicial review under Article 226 of the Constitution. The writ petition is dismissed.

Sd/-

(Navin Sinha)  
**CHIEF JUSTICE**

Sd/-

(P. Sam Koshy)  
**JUDGE**